

FILEDIN CLERK'S OFFICE
U.S. DISTRICT COURT, E.D.N.Y.

★ MAR 30 2006 ★

BROOKLYN OFFICE

DUPREE M. HARRIS REG# 71062-053

METROPOLITAN CORRECTIONAL CENTER

150 PARK ROW

NEW YORK, N.Y. 10007

THE HONORABLE ALLYNE R. ROSS

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

225 CADMAN PLAZA EAST

BROOKLYN, NEW YORK 11201

Ordered that copies of
this letter be transmitted to
AWA and defense counsel.

Deputy DA JDS 4/3/06

cc: J. Harris

DATE: MARCH 27, 2006

RE: UNITED STATES v. DUPREE HARRIS, ET AL. CR. NO. (04-203) (J-4) (ARR)

DEAR JUDGE ROSS,

RESPECTFULLY, I'M WRITING THE COURT (YOUR HONOR) TO REQUEST FOR A FACTUAL HEARING (COMMONLY KNOWN AS A "CARMINE FACTIO" OR "FACIO" HEARING).. AS THE COURT SHOULD BE AWARE I (DUPREE HARRIS) TOTALLY OBJECT TO THE ENTIRE P.S.I REPORT. WITH RESPECT TO MY OBJECTION, THE REQUESTED HEARING SHALL OUT-LINE THE PERTINENT FACTS AND ROLE(S) THAT I (DUPREE HARRIS) ALLEGEDLY PLAY DURING THE ALLEGED CONSPIRACY, TOWHICH I HAVE BEEN CONVICTED OF. THE HEARING IS NOT ONLY FRUITFUL TO DETERMINE THE SPECIFIC ROLE IN THE ALLEGED CONSPIRACY, HOWEVER, ITS CORE METHOD IS TO SUFFICIENTLY DEFINE THE PARTICULAR AMOUNT OF DRUGS EACH MEMBER OF THE ALLEGED CONSPIRACY IS ACCOUNTABLE FOR. THE P.S.I REPORT STATES THAT I (DUPREE HARRIS) AM ACCOUNTABLE FOR 1.5 KILOGRAMS OF CRACK COCAINE DISTRIBUTED DURING THE INSTANT CONSPIRACY, TOWHICH APPLIES THE HIGHEST BASE OFFENSE LEVEL UNDER GUIDELINE 2.D1.1, LEVEL 38, FOR GUIDELINE CALCULATION PURPOSES. THE P.S.I REPORT ALSO ENHANCES ME, PER GUIDELINE 3B1.1(A) AS A "LEADER" IN THE INSTANT OFFENSE, TOWHICH IS A FOUR LEVEL AGGRAVATING ROLE ENHANCEMENT. NOTABLY, THE PRINCIPLES ARE SET FORTH IN UNITED STATES V. GONZALEZ, 420 F.3d 111 (2nd CIR. 2005) AND CORDOBA-MURGAS V. UNITED STATES, 422 F.3d 65 (2nd CIR. 2005) ESTABLISHING THAT A DEFENDANT CANNOT BE CHARGED WITH AN OFFENSE AND THEN SENTENCED TO AN AGGRAVATED FORM OF THAT OFFENSE WITHOUT (1) INDICTMENT BY GRAND JURY, AND (2) SUBMISSION TO THE JURY FOR PROOF BEYOND A REASONABLE DOUBT. YOUR HONOR I DON'T WISH TO BURDEN THE COURT, HOWEVER THIS IS MY LIFE. AND AS A U.S. CITIZEN I AM ENTITLED TO A FULL SLATE OF THE LAW.

c/m

CC: STACY RICHMAN, ESQ

2027 WILLIAMSBRIDGE Rd. 3RD FLOOR

BRONX, NEW YORK 10461

RESPECTFULLY SUBMITTED

